



RICHARD J. CODEY
ACTING GOVERNOR

STATE OF NEW JERSEY
DEPARTMENT OF PERSONNEL

ROLANDO TORRES, JR.
COMMISSIONER

Merit System Board

**AGENDA OF REGULAR MEETING OF
THE MERIT SYSTEM BOARD
June 22, 2005**

**Rolando Torres, Jr., Chairman
Flavella Branham
John Currie
Margaret E.L. Howard
Robert Long**

DATE: June 14, 2005

TO: Rolando Torres, Jr. Commissioner
Department of Personnel

FROM: Elizabeth Van Marter, Director
Human Resource Management

SUBJECT: Change in the State Classification Plan

BANKING AND INSURANCE

The Department of Banking and Insurance requests the reactivation of a department-specific, variant title series, the reallocation of the series to the interim non-competitive service for one pay period to appoint existing incumbents, and a two range salary reevaluation. This request is pursuant to an agreement between the negotiations representatives and the Department of Banking and Insurance.

In July, 1998, a number of selected functions and staff were transferred from the Department of Banking and Insurance to the Department of Law and Public Safety. These transferred functions were allocated to the unclassified service by statute. The transfer agreement did not include the insurance fraud investigative functions conducted by the Audit and Compliance, Industry Education or Collection Sections that remained under the direction of Banking and Insurance. The remaining incumbents at the Department of Banking and Insurance continue to serve in the unclassified service despite the fact that there is no statutory justification to do so.

The requested titles will provide for the proper classification and retention of trained staff. Incumbents will receive interim, non-competitive appointments to the reactivated titles. The two range increase is requested to properly compensate investigative staff, given the level of responsibility and increase in job requirements.

VARIANT TITLE REACTIVATION, INTERIM SERVICE REALLOCATION, RANGE CHANGE

Effective: 06-11-05

FROM:

Investigator Insurance, Enforcement
P17-55152h C X NE/12

Senior Investigator Insurance, Enforcement
P20-55153g C X NE/12

TO:

Investigator Insurance, Enforcement
P19-55152h NC X NE/12

Senior Investigator Insurance, Enforcement
P22-55153g NC X NE/12

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**VARIANT TITLE REACTIVATION, INTERIM SERVICE REALLOCATION,
RANGE CHANGE** (cont.)

FROM:

TO:

Pr. Investigator Insurance, Enforcement
Enforcement

R23-55154g C X NL/12

Sprvsng Invstgtr Insurance, Enforcement
Enforcement

S26-55156g C X NL/12

Pr. Investigator Insurance,

R25-55154g NC X NL/12

Sprvsng Invstgtr Insurance,

S28-55156g NC X NL/12

SERVICE REALLOCATION – NON-COMPETITIVE TO COMPETITIVE

Effective: 06-25-05

Investigator Insurance, Enforcement
P19-55152h NC X NE/12

Senior Investigator Insurance, Enforcement
Enforcement P22-55153g NC X
X NE/12

Investigator Insurance, Enforcement
P19-55152h C X NE/12

Senior Investigator Insurance, Enforcement
P22-55153g C

Pr. Investigator Insurance, Enforcement
Enforcement

R25-55154g NC X NL/12

Sprvsng Invstgtr Insurance, Enforcement
Enforcement

S28-55156g NC X NL/12

Pr. Investigator Insurance,

R25-55154g C X NL/12

Sprvsng Invstgtr Insurance,

S28-55156g C X NL/12

SECTION A – HEARING MATTERS

A-1 SETTLEMENTS

In the Matter of Robin Bridges
Newark Housing Authority
Removal

In the Matter of Eudora Couse-Payne
County of Monmouth
Department of Health Care Facilities
Suspension

In the Matter of Mark Creuz
County of Monmouth
Department of Corrections and Youth Services
Suspension

In the Matter of Aligya David
Trenton Psychiatric Hospital
Department of Human Services
Removal

In the Matter of Earnest Drake
Arthur Brisbane Child Treatment Center
Department of Human Services
Removal

In the Matter of Charles Holmes
Camden County Municipal Utilities Authority
Removal

In the Matter of Timothy M. Lapinski
County of Monmouth
Department of Corrections and Youth Services
Suspensions (2)

In the Matter of John Leach
Township of Willingboro
Police Department
Release at the end of the working test period

In the Matter of Gil Panganiban
County of Morris
Department of Public Works
Suspension

In the Matter of Concepcion Reyes, Jr.
City of Trenton
Department of Public Works
Removal

In the Matter of James Rinaldo
County of Union
Department of Public Safety
Suspension

In the Matter of Judy Sanderlin
County of Salem
Sheriff's Department
Removal

In the Matter of Philip Shapiro
Department of Labor
Return to formerly held permanent title at the end of the working test period

In the Matter of Michael Smith
Township of Lawrence
Department of Public Safety
Suspension

In the Matter of Christina Stout
County of Burlington
Department of Public Safety Services
Suspensions (2)

**RECOMMENDATION OF THE ADMINISTRATIVE LAW JUDGE IN THE
ABOVE CASES – SETTLEMENT**

ACTION:

A2 HARRY AGIN (REMAND)

Harry Agin, Construction Official, Township of North Brunswick, Department of Community Development, ten-day suspension on charges of incompetency, inefficiency, failure to perform duties and insubordination.

Recommendation of the Administrative Law Judge – Dismiss the appeal.

ACTION:

A-3 BRIAN BETHEA

Brian Bethea, Senior Medical Security Officer, Ann Klein Forensic Psychiatric Hospital, Department of Human Services, 10-day suspension on charges of being absent from work as scheduled without permission and without giving proper notice of intended absence.

Recommendation of the Administrative Law Judge – Uphold the 10-day suspension.

ACTION:

A-4 EDWARD J. FIORE

Edward J. Fiore, County Correction Officer, County of Monmouth, Department of Corrections and Youth Services, six-day suspension on charges of abuse of sick leave and unauthorized absences.

Recommendation of the Administrative Law Judge – Uphold the six-day suspension.

ACTION:

A-5 BARBARA GREEN (REMAND)

Barbara Green, an Executive Assistant 2 with the Department of Corrections appeals the determination of the Director, Equal Employment Division, stating that she failed to present sufficient evidence to support a finding that she had been subjected to a violation of the New Jersey State Policy Prohibiting Discrimination, Harassment or Hostile Environments in the Workplace. It is noted that at the time of the complaint the appellant was a Program Development Specialist 1 at East Jersey State Prison.

Recommendation of the Administrative Law Judge – Deny the appeal.

ACTION:

A-6 GERARDINA LOCASCIO

Gerardina LoCascio, Senior Library Assistant, Bloomfield Public Library, appeals the good faith of her layoff effective July 21, 2003, for reasons of economy and efficiency.

Recommendation of the Administrative Law Judge – Grant Summary Decision and dismiss the appeal.

ACTION:

A-7 ANTOINETTE ROSS

Antoinette Ross, County Correction Officer, County of Camden, Department of Corrections, release at the end of the working test period effective November 7, 2001.

Recommendation of the Administrative Law Judge – Uphold the release at the end of the working test.

ACTION:

A-8 ANGEL SUERO

Angel Suero, Security Guard, Newark School District, resignation not in good standing effective May 7, 2001, on charges of job abandonment and other sufficient cause.

Recommendation of the Administrative Law Judge – Uphold the resignation not in good standing.

ACTION:

A-9 JUAN M. TAPARI

Juan M. Tapari, Building Maintenance Worker, County of Union, Department of Operations and Facilities, ten-day suspension on charges of insubordination and conduct unbecoming a public employee.

Recommendation of the Administrative Law Judge – Uphold the ten-day suspension.

ACTION:

A-10 VERNON ALLEN

Vernon Allen, Motor Vehicle Operator, New Jersey Veterans' Memorial Home, Department of Military and Veterans Affairs, removal June 28, 2004, on charges of inappropriate physical contact or mistreatment of a patient, client, resident, or employee, fighting or creating a disturbance on state property, insubordination and conduct unbecoming a public employee.

Recommendation of the Administrative Law Judge – Modify the removal to a three-month suspension.

ACTION:

A-11 DOUGLAS BLOCH

Douglas Bloch, Omnibus Operator, County of Gloucester, Department of Human Services, removal effective December 15, 1999, on the charge of conduct unbecoming a public employee.

Recommendation of the Administrative Law Judge – Uphold the removal.

ACTION:

A-12 WILLIAM FATUM

William Fatum, Program Development Specialist I, Juvenile Justice Commission, Department of Law and Public Safety, removal effective February 18, 2000, on charges of conduct unbecoming a public employee and neglect of duty.

Recommendation of the Administrative Law Judge – Modify the removal to a six-month suspension.

ACTION:

A-13 PATRICIA FLORENCE

Patricia Florence, Head Vault Clerk, New Jersey Department of State, removal effective January 26, 2001, on the charge of inability to perform duties.

Recommendation of the Administrative Law Judge – Dismiss the appeal for lack of prosecution.

ACTION:

A-14 WAYNE KOZAK

Wayne Kozak, Behavior Modification Program Technician, Woodbridge Developmental Center, Department of Human Services, resignation not in good standing effective March 11, 2003, on the charge of job abandonment and a removal effective May 29, 2003 on the charge of being absent from work as scheduled without permission and without giving proper notice of intended absence.

Recommendation of the Administrative Law Judge – Uphold the resignation not in good standing and removal.

ACTION:

A-15 CHERYL PORTEE-CLARK

Cheryl Portee-Clark, Head Nurse, County of Monmouth, Department of Corrections and Youth Services, 30-day suspension, 45-day suspension, 90-day suspension and removal effective December 14, 2002 on charges of, *inter alia*, sleeping while on duty, neglect of duty, failure to devote attention to tasks which could result in danger to inmates, leaving an assigned post and conduct unbecoming a public employee.

Recommendation of the Administrative Law Judge - Modify the 30-day suspension to a 15-day suspension, uphold the 45-day suspension, uphold the 90-day suspension, and uphold the removal

ACTION:

SECTION B – MISCELLANEOUS MATTERS**B-1 ANTONIO DELA CALLE**

Antonio Dela Calle, represented by Rocco F. Errico, Esq., appeals his rejection as a Correction Officer Recruit candidate by the Department of Corrections and its request to remove his name from the eligible list for Correction Officer Recruit (S9999D) on the basis of psychological unfitness to perform effectively the duties of the position.

ACTION:

B-2 ROBERT J. FOBELL, II

Robert J. Fobell, II, represented by Michael D. Miller, Esq., appeals his rejection as a Fire Fighter candidate by the City of Camden and its request to remove his name from the eligible list for Fire Fighter (M2013A) on the basis of psychological unfitness to perform effectively the duties of the position.

ACTION:

B-3 TONYA JOHNSON

Tonya Johnson appeals her rejection as a Correction Officer Recruit candidate by the Department of Corrections and its request to remove her name from the eligible list for Correction Officer Recruit (S9999D) on the basis of psychological unfitness to perform effectively the duties of the position.

ACTION:

B-4 RYAN TULKO

Ryan Tulko, represented by William P. Flahive, Esq., appeals his rejection as a Sheriff's Officer candidate by the County of Ocean and its request to remove his name from the eligible list for Sheriff's Officer (S9999D) on the basis of psychological unfitness to perform effectively the duties of the position.

ACTION:

B-5 GEORGE M. CARPENTER

George M. Carpenter appeals the request by the New Jersey Department of Corrections to remove his name from the Correction Officer Recruit (S9999F) eligible list for medical unfitness to effectively perform the duties of the position.

ACTION:

B-6 LOUIS EGGERT

Louis Eggert, a Crew Supervisor, Electricians with the Juvenile Justice Commission, Department of Law and Public Safety, represented by David A. Gies, Esq., appeals the denial of sick leave injury (SLI) benefits.

ACTION:

B-7 SANDRA EMBRY

Sandra Embry, a Principal Data Entry Machine Operator (Terminal) with the Department of the Treasury, appeals the denial of sick leave injury (SLI) benefits.

ACTION:

B-8 MICHAEL MARELLA

Michael Marella, a former Painter with Ancora Psychiatric Hospital, Department of Human Services, appeals the denial of sick leave injury (SLI) benefits.

ACTION:

B-9 RICHARD NOBLE

Richard Noble, a Contract Administrator 1 with the Division of Youth and Family Services, Department of Human Services, appeals the denial of sick leave injury (SLI) benefits.

ACTION:

B-10 KAREN SMITH

Karen Smith, a Head Bus Driver with the Office of Education, Department of Human Services, appeals the denial of sick leave injury (SLI) benefits.

ACTION:

B-11 MICHAEL J. WALSH

Michael J. Walsh, a Senior Wildlife Worker with the Department of Environmental Protection, appeals the denial of sick leave injury (SLI) benefits.

ACTION:

B-12 EDITH JOHNSON

Edith Johnson appeals the removal of her name from the Family Service Supervisor (PC1167C), Essex County eligible list and the bypass of her name on the Administrative Analyst (PC1505C), Essex County eligible list.

ACTION:

B-13 MATTHEW FRIERSON

Matthew Frierson, an Investigator 1, Unemployment Insurance, with the Department of Labor and Workforce Development (DOL), appeals the determination of the Commissioner of the DOL which found that the appellant failed to present sufficient evidence to support a finding that he had been subjected to violations of the New Jersey State Policy Prohibiting Discrimination, Harassment or Hostile Environments in the Workplace.

ACTION:

B-14 JACQUELINE PETTEY

Jacqueline Pettey, a Social Worker 2, Corrections, at Albert C. Wagner Youth Correctional Facility, Department of Corrections (DOC), appeals the determination of the Acting Director, Equal Employment Division, with the DOC, stating that the appellant failed to present sufficient evidence to support a finding that she had been subjected to violations of the New Jersey State Policy Prohibiting Discrimination, Harassment or Hostile Environments in the Workplace.

ACTION:

B-15 JAMES V. BURKE

James V. Burke request reconsideration of the final decision of the Merit System Board (Board) rendered on January 26, 2005, which found that the appointing authority's bypass of the petitioner's name for appointment on the March 2, 2004 certification of the Police Sergeant (PM2543A), Sea Isle City, eligible list was proper.

ACTION:

B-16 ZONING OFFICER, TOWNSHIP OF MOUNT LAUREL (M6341E)

The appointing authority's failure to properly dispose of the certification for Zoning Officer, while a provisional appointee is serving in the title, has been referred to the Merit System Board for enforcement.

ACTION:

B-17 MARIA CARBONE

Maria Carbone, a Senior Data Entry Machine Operator with the Department of Labor, petitions the Merit System Board for reconsideration of the final decision, rendered on January 26, 2005, which acknowledged the withdrawal of her appeal concerning her 20-day suspension and permanent reassignment on charges commencing on April 23, 2003.

ACTION:

B-18 MALIKA HALE

Malika Hale, a Support Services Representative 2 with the Motor Vehicle Commission, represented by Jesse J. Averhart, CWA Local 1033, petitions the Merit System Board for reconsideration of the final decision rendered on August 11, 2004, which modified her six-month suspension to a three-month suspension.

ACTION:

B-19 WAYNE VARGA

Wayne Varga, a former Investigator 3, Taxation, with the Department of the Treasury, requests reconsideration of the decision of the Merit System Board rendered on March 23, 2005, denying his appeal of his resignation in good standing effective April 8, 2004.

ACTION:

B-20 KEITH FERGUSON

Keith Ferguson, a Police Officer with the City of Atlantic City, represented by Stuart Alterman, Esq., seeks enforcement of the Merit System Board decision rendered on June 26, 2002, granting him back pay, benefits, seniority and counsel fees.

ACTION:

B-21 KAREN JENKINS

The Department of Corrections, represented by Vivian I. Zumas, Deputy Attorney General, requests interlocutory review of the order of Administrative Law Judge (ALJ) Bruce M. Gorman in *Karen Jenkins v. Department of Corrections*, DOP Docket No. 2004-3868, OAL Docket No. CSV 6363-04, pursuant to N.J.A.C. 11-14.10(a).

ACTION:

B-22 PAMELA MITCHELL

Pamela Mitchell, Senior Correction Officer, appeals an Official Written Reprimand issued by the Department of Corrections.

ACTION:

B-23 CATHY A. ADAMO

Cathy A. Adamo appeals the determination of the Division of Selection Services which found that she was below the minimum requirements in experience for the promotional examination for Supervisor of Records (PC1368F), Atlantic County.

ACTION:

B-24 YVETTE BARR AND RUPINDER JAGPAL

Yvette Barr and Rupinder Jagpal appeals the determination of the Division of Selection Services which found that they did not meet the experience requirement for the open competitive examination for Program Development Specialist 2 (Child Nutrition Administration) (S6807G), Department of Agriculture.

ACTION:

B-25 MECHELLE BOGADO AND GERALD DELORENZO

Mechelle Bogado and Gerald DeLorenzo appeal the determination of the Division of Selection Services which found that they were below the minimum requirements in experience for the promotional examination for Assistant Administrative Supervisor of Income Maintenance (PC0923F), Mercer County Board of Social Services.

ACTION:

B-26 NICOLE BROADNAX

Nicole Broadnax appeals the determination of the Division of Selection Services which found that she did not meet the experience requirements for the promotional examination for Senior Program Development Specialist, Community Services (C6237F), Essex County.

ACTION:

B-27 KAREN BUVEL

Karen Buvel appeals the determination of the Division of Selection Services which found that, per the substitution clause for education, she did not meet the experience requirements for the examination for Government Relations Specialist 2 (PS3259K), Department of Human Services.

ACTION:

B-28 MARK A. CAPONE

Mark A. Capone, in an appeal filed on his behalf by Philip A. LiVecchi, Director, Essex County Department of Public Works, appeals the determination of the Division of Selection Services which found that he did not meet the experience requirements for the promotional examination for Supervising Road Inspector (PC1126F0, Essex County.

ACTION:

B-29 DAVID CHAVEZ

David Chavez appeals the determination of the Division of Selection Services which found that he did not meet the experience requirements for the examination for Tenant Interviewer Bilingual in Spanish and English (M6827F), City of Bayonne.

ACTION:

B-30 ZANE DION CLARK

Zane Dion Clark appeals the determination of the Division of Selection Services which found that he did not meet the experience requirements for the examination for Housing Inspector (M6787F), City of Trenton.

ACTION:

B-31 FRANK DANNER, ET AL.

Frank Danner and Valerie Frankie appeal the determination of the Division of Selection Services which found that they were below the minimum requirements in experience for the promotional examination for Assistant Field Services Supervisor, Family Development (PS1892K), Division of Family Development. Sharon Walinski appeals the determination of the Division of Selection Services which found that, per the substitution clause for education, she was below the minimum requirements in experience for the promotional examination for Assistant Field Services Supervisor, Family Development (PS1892K), Division of Family Development.

ACTION:

B-32 MONICA DARRELL AND JULIE FANNING

Monica Darrell and Julie Fanning appeal the determination of the Division of Selection Services, which found that they were below the minimum requirements in experience for the promotional examination for Contract Administrator 1 (PS3315K), Division of Developmental Disabilities.

ACTION:

B-33 NELLIE HEWITT

Nellie Hewitt appeals the determination of the Division of Selection Services that found that she did not meet the education and experience requirements for the promotional examination for Administrative Analyst 4 (Data Processing), (PS1836I), Department of Corrections.

ACTION:

B-34 ANSELM JEEVARATNAN

Anselm Jeevaratnam appeals the determination of the Division of Selection Services which found that he did not meet the experience requirements for the promotional examination for Program Development Specialist 1 Medical Assistance and Health Services (PS2236K), Division of Medical Assistance and Health Services.

ACTION:

B-35 LISA METZ AND DONEEN PORTA

Lisa Metz and Doneen Porta appeal the determination of the Division of Selection Services which found that they did not meet the experience requirements for the open competitive examination for Research Aide (C0917G), Hudson County.

ACTION:

B-36 ALISON MORRISON

Alison Morrison appeals the determination of the Division of Selection Services which found that, per the substitution clause for education, she did not meet the experience requirements for the open competitive examination for Executive Assistant (M6914G), Teaneck.

ACTION:

B-37 YOLANDA PETERSON

Yolanda Peterson appeals the determination of the Division of Selection Services which found that, per the substitution clause for education, she did not meet the experience requirements for the promotional examination for Supervising Accountant (PM1121F), Atlantic City.

ACTION:

B-38 EDWARD ROMANI AND BARRY SCHNEIDER

Edward Romani and Barry Schneider appeal the determinations of the Division of Selection Services that found that they did not meet the experience requirements or the license requirements, respectively, for the promotional examination for Operating Engineer, Heating and Air Conditioning (PS2698K), New Lisbon Developmental Center.

ACTION:

B-39 YAJANA SCHWENK

Yajana Schwenk appeals the determination of the Division of Selection Services which found that she did not meet the experience requirement for the open competitive examination for Human Services Specialist 2 (Bilingual in Spanish and English) (C0939G), Morris County.

ACTION:

B-40 JOSPEH SEWARD

Joseph Seward appeals the determination of the Division of Selection Services that found that he did not meet the experience requirements for the promotional examination for Operating Engineer, Heating and Air Conditioning (PS2698K), New Lisbon Developmental Center.

ACTION:

B-41 FREDERICK J. SIMPSON

Frederick J. Simpson appeals the decision of the Division of Selection Services which found him to be below the minimum requirements in experience for the promotional examination for Sanitation Driver (PM0676F), Little Egg Harbor Township.

ACTION:

B-42 LEN TIGHE

Len Tighe appeals the determination of the Division of Selection Services which found that, per the substitution clause for education, he did not meet the experience requirements for the examination for Senior Data Processing Systems Programmer (PC1283F), Camden County.

ACTION:

B-43 FRANCIS VENEZIALE

Francis Veneziaale appeals the determination of the Division of Selection Services which found that he did not meet the experience requirement for the open competitive examination for Deputy County Emergency Management Coordinator (C6401G), Hunterdon County.

ACTION:

B-44 DONNA VERRIER

Donna Verrier appeals the determination of the Division of Selection Services which found that she did not meet the experience requirements for the promotional examination for Senior Clerk Typist (PS4447K), Division of Youth and Family Services.

ACTION:

B-45 AMINATOU DIALLO

Aminatou Diallo appeals her score for the examination for Technical Assistant 3 (S0190E).

ACTION:

B-46 HARRY CHANCE AND DONALD COUGHLAN

Harry Chance and Donald Coughlan appeal their scores on the examination for Director of Custody Operations 1 (PS3874I), Department of Corrections.

ACTION:

B-47 GAGE CALDWELL

Gage Caldwell appeals the test administration and test content of the promotional examination for Construction and Maintenance Technician 5 (PS0428T), Department of Transportation.

ACTION:

B-48 JENNIFER ANZELONE

Lower Township requests relaxation of N.J.A.C. 4A:4-7.1A(c) so as to permit the intergovernmental transfer of Jennifer Anzelone from the title of Ranger, Department of Environmental Protection, to the title of Police Officer, Lower Township.

ACTION:

B-49 INVESTIGATOR INSURANCE, ENFORCEMENT, ET AL.

The Director, Division of Human Resource Management (HRM), requests the reallocation of the Investigator Insurance, Enforcement title series to the non competitive division of the career service on an interim basis for one pay period.

ACTION:

B-50 RECENT COURT DECISIONS

Submitted for the Board's information are summaries of recent court decisions involving Merit System Board and Department of Personnel determinations *In the Matter of Lillian Foster, Senior Right of Way Negotiator (S0757C), Department of Transportation* (Appellate Division, decided 4/5/05); *In the Matter of Samad Washington, City of Newark* (Appellate Division, decided 4/13/05); *In the Matter of Gideon Bernhard* (Appellate Division, decided 4/18/05); and *In the Matter of Sharon Peterson v. Department of Corrections; James Roberson v. East Jersey State Prison* (Appellate Division, decided 4/21/05).

ACTION:**B-51 MERIT SYSTEM BOARD MINUTES**

Submitted for the Board's approval are the Merit System Board minutes of its meeting of June 8, 2005.

ACTION: